

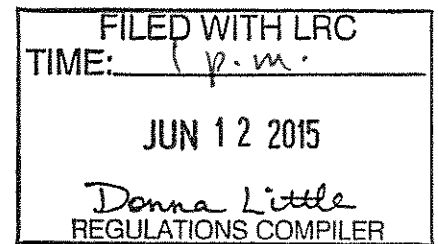
301 KAR 1:146

Commercial fishing gear

This administrative regulation specifies the legal methods that may be used by commercial fisherman to harvest rough fish.

Significant Changes

This amendment adds wording that was inadvertently removed during the last revision of this regulation in 2013. The wording was changed back to its original intent of allowing gill or trammel nets to be used only in the Ohio and Mississippi rivers as well as certain overflow lakes off of these rivers.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 1:146. Commercial fishing gear.

5 RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450, 150.990

6 STATUTORY AUTHORITY: KRS 150.025(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department

8 to promulgate administrative regulations to establish seasons for the taking of fish and wildlife,

9 to regulate bag limits, creel limits, and methods of take, and to make those requirements apply to

10 a limited area. This administrative regulation establishes the legal methods that may be used by

11 commercial fishermen to harvest rough fish.

12 Section 1. Definitions. (1) "Bar mesh size" means the distance between two (2) knots on a line of

13 a net.

14 (2) "Commercial gear tag" means a metal tag provided by the department that is attached to legal

15 commercial fishing gear as established in this administrative regulation.

16 (3) "Flag net" means a gill or trammel net that is anchored on one (1) end, with the other end of

17 the net unanchored, allowing this end of the gill or trammel net to float freely.

18 Section 2. Gear Requirements. (1) The gear listed in subsections (2) through (16) of this section

19 shall be the only legal commercial fishing gear allowed in commercial fishing waters established

20 in 301 KAR 1:150 and under the conditions established in 301 KAR 1:155 by a licensed

21 commercial fisherman.

1 (2) A hoop net, wing net, straight net, or heart lead net shall have a minimum bar mesh size of
2 three (3) inches, except that the minimum mesh size shall be one (1) inch in the following
3 waters:

4 (a) The Ohio River;

5 (b) The Mississippi River; and

6 (c) Those portions of the following waters open to commercial fishing pursuant to 301 KAR
7 1:150:

8 1. The Cumberland River below Barkley Dam; and

9 2. The Tennessee River below Kentucky Dam.

10 (3) A hoop may be made of any:

11 (a) Size;

12 (b) Shape; or

13 (c) Material.

14 (4) Wings and leads shall be constructed of the following material:

15 (a) Natural multifilament; or

16 (b) Synthetic.

17 (5) Netting used for wings and leads shall:

18 (a) Be constructed of twine no smaller than number six (6) nylon or the equivalent;

19 (b) Have a breaking strength of fifty-five (55) pounds or greater; and

20 (c) Have a bar mesh size no larger than one (1) inch.

21 (6) Wings and leads may consist of either:

22 (a) Knotted construction; or

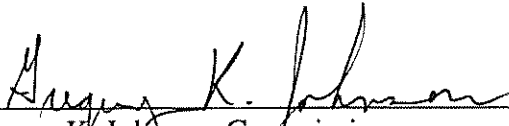
23 (b) Knotless construction.

- 1 (7) The maximum length of each hoop net wing or lead shall be sixty (60) feet.
- 2 (8) The following nets shall be fished as individual nets:
- 3 (a) Hoop nets;
- 4 (b) Wing nets;
- 5 (c) Straight lead nets; or
- 6 (d) Heart lead nets.
- 7 (9) Wings or leads shall:
- 8 (a) Not be tied together to become a continuous multiple net unit; and
- 9 (b) Be used only to lead fish into a hoop net.
- 10 (10) One (1) commercial gear tag shall be attached to the first hoop of each net.
- 11 (11) A gill or trammel net:
- 12 (a) May be fished:
- 13 1. Weighted; or
- 14 2. As a flag net; and
- 15 (b) Shall have one (1) commercial gear tag attached to each 100 feet or part thereof.
- 16 (12) A gill or trammel net shall only be used in:
- 17 (a) The Ohio River;
- 18 (b) The Mississippi River; or
- 19 (c) an overflow lake adjacent to the Ohio or Mississippi River ~~only~~ if the lake can be accessed
- 20 from the river by a boat during high flow conditions, except as prohibited:
- 21 1. ~~(a)~~ On department Wildlife Management Areas pursuant to 301 KAR 4:020 and 4:050; or
- 22 2. ~~(b)~~ Pursuant to the requirements of 301 KAR 1:140.
- 23 (13) The bar mesh size on gill or trammel nets shall be:

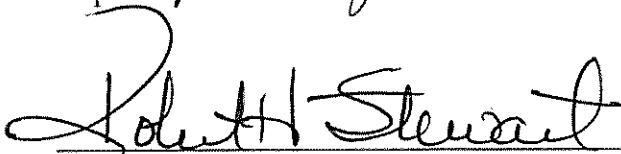
- 1 (a) At least three (3) inches in:
- 2 1. The Mississippi River; and
- 3 2. Overflow lakes adjacent to the Mississippi River;
- 4 (b) At least four (4) inches from November 1 through April 30 in:
- 5 1. The Ohio River; and
- 6 2. Overflow lakes adjacent to the Ohio River; and
- 7 (c) Between four (4) and four and one-half (4 1/2) inches from May 1 through October 31 in:
- 8 1. The Ohio River; and
- 9 2. Overflow lakes adjacent to the Ohio River.
- 10 (14) A commercial trotline shall:
- 11 (a) Have more than fifty (50) hooks placed no closer than eighteen (18) inches apart;
- 12 (b) Have one (1) commercial gear tag attached; and
- 13 (c) Not be longer than 6,000 feet.
- 14 (15) A seine:
- 15 (a) Shall have a maximum bar mesh size of one (1) inch;
- 16 (b) May have knotted netting if constructed of twine that is:
- 17 1. No smaller than number six (6) nylon; or
- 18 2. An equivalent having a breaking strength of at least fifty-five (55) pounds;
- 19 (c) May have knotless netting if constructed of twine that is:
- 20 1. No smaller than number 147 nylon; or
- 21 2. An equivalent having a breaking strength of fifty (50) pounds or greater;
- 22 (d) Shall be constructed of:
- 23 1. Natural multifilament; or

- 1 2. Synthetic material;
- 2 (e) Shall have both float and lead lines;
- 3 (f) Shall have the following attached at each end:
 - 4 1. Wood poles;
 - 5 2. Fiberglass poles; or
 - 6 3. Brailes;
- 7 (g) Shall be attended by a person who pulls the seine by hand through the water to entrap fish;
- 8 and
- 9 (h) Shall have one (1) commercial gear tag attached to each 100 feet or part thereof.
- 10 (16) A slat trap basket shall:
 - 11 (a) Not have wire or other mesh added to any part of the trap;
 - 12 (b) Have at least two (2) openings left between slats:
 - 13 1. No smaller than one and one-fourth (1 1/4) inches wide in the catch portion of the trap; and
 - 14 2. That shall not be restricted by cross-bracings to a length shorter than eight (8) inches;
 - 15 (c) Not be larger than two (2) feet in diameter or square-end measure; and
 - 16 (d) Have one (1) commercial gear tag attached to the opening ring or square.

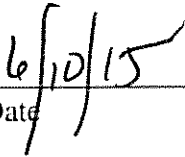
Approved by the Fish and Wildlife Commission



Gregory K. Johnson, Commissioner
Department of Fish and Wildlife Resources



Robert H. Stewart, Secretary
Tourism, Arts and Heritage Cabinet



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 21, 2015, at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by July 31, 2015.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack
Kentucky Department of Fish and Wildlife Resources
1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-7109, Ext. 4507 FAX (502) 564-9136
Email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 1:146 Commercial Fishing Gear

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the legal methods that may be used by commercial fisherman to harvest rough fish.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to specify the types of legal gear that may be used by commercial fisherman to harvest rough fish from waters open to commercial fishing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate bag limits, creel limits, and methods of take, and to make those requirements apply to a limited area. This administrative regulation establishes the legal methods that may be used by commercial fishermen to harvest rough fish.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of KRS 150.025 by defining the size and types of gear that commercial fisherman can use to take rough fish.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds wording that was inadvertently removed during the last revision of this regulation in 2013. The wording was changed back to its original intent of allowing gill or trammel nets to be used only in the Ohio and Mississippi rivers as well as certain overflow lakes off of these rivers.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to avoid excessive fish harvest and by-catch in waters outside of the Ohio and Mississippi rivers and their overflow lakes.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is unlikely that this amendment will affect any commercial fishermen using commercial gill nets outside of the Ohio or Mississippi Rivers since almost all of the commercial fishermen were unaware of the inadvertent wording mishap.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Commercial fishermen will only be allowed to use gill or trammel nets in the Ohio and Mississippi rivers and certain overflow lakes

associated with these rivers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to individuals complying with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fishermen will benefit through prevention of overharvest and by-catch of some fish species, which will promote a more healthy fish population.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost initially to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees will be directly or indirectly increased.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied because all commercial fishermen will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 1:146
Contact Person: Rose Mack
Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Fisheries and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate bag limits, creel limits, and methods of take, and to make those requirements apply to a limited area. This administrative regulation establishes the legal methods that may be used by commercial fishermen to harvest rough fish.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue will not be generated by this administrative regulation for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue will not be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? No cost will be incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? No cost will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: